

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

NELLA JOHNSON,

Plaintiff,

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SA-21-CV-00652-XR

vs.

BEXAR COUNTY,

Defendant.

ORDER

Before the Court in the above-styled cause of action is Plaintiff's Motion for Reconsideration to Appoint Counsel [#6]. Plaintiff's motion was automatically referred to the undersigned upon filing, and the undersigned has authority to enter this order pursuant to 28 U.S.C. § 636(b)(1)(A). By her motion, Plaintiff asks the Court to reconsider its previous order denying her the appointment of counsel and to appoint an attorney to represent her in this case. The Court will grant the motion.

There is no right to the automatic appointment of counsel in a civil case. *Akasike v. Fitzpatrick*, 26 F.3d 510, 512 (5th Cir. 1994); *Cupit v. Jones*, 835 F.2d 82, 86 (5th Cir. 1987). However, courts have the discretion to appoint counsel pursuant to 28 U.S.C. § 1915(e)(1) in *in forma pauperis* proceedings.

The record reflects that on July 19, 2021, the Court granted Plaintiff's motion to proceed *in forma pauperis* and, after finding Plaintiff to have pleaded at least one non-frivolous claim, ordered Plaintiff to request the issuance of summonses and to serve Defendant with her Complaint. On this same date, the Court denied Plaintiff's motion to appoint counsel without

prejudice to reconsideration at a later date, concluding that Plaintiff had not demonstrated that exceptional circumstances warranted an appointment.

Plaintiff's motion for reconsideration states that she suffers from recent hearing loss, cognitive deficiencies, severe depression, and post-traumatic stress disorder and is unable to represent herself in this action. As the Court previously concluded, Plaintiff's *pro se* Complaint pleads at least one non-frivolous claim. Under these circumstances, the Court finds that Plaintiff is not able to adequately represent her interests in this action and finds that appointing counsel will advance the administration of justice and assist both Plaintiff and the Court. The Court will therefore exercise its discretion and appoint Plaintiff an attorney.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Reconsideration to Appoint Counsel [#6] is **GRANTED**.

IT IS FURTHER ORDERED that the following attorney is appointed to represent Plaintiff in this case:

Allison Sarah Hartry
The Morales Firm
6243 IH-10 West, Suite 132
San Antonio, Texas 78201
210-225-0811
aharty@themoralesfirm.com

IT IS FURTHER ORDERED that the Clerk forward a copy of this Order appointed counsel.

IT IS FINALLY ORDERED that appointed counsel contact Plaintiff within **21 days** of this Order.

IT IS SO ORDERED.

SIGNED this 29th day of July, 2021.



The image shows a handwritten signature in black ink, appearing to read "Eliz. S. Chestney". Below the signature, there is a printed name in a serif font.

ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE